

National Labor Relations Board

December 16, 2020

Executive Secretary of the Board

National Labor Relations Board

1015 Half Street SE

Washington, D.C. 20570-0001

Re: Mercedes Benz of Oakland

Case 32-RD-252832

Revised Request for Review

Dear Executive Secretary,

Pursuant to Section 102.71 of the National Labor Relations Board's Rules and Regulations, I respectfully request for review the Region 32 November 25, 2020 hold in abeyance of the above-mentioned case pending the investigation of the unfair labor practice charges in Case Numbers 32-CA-269464, 32-CA-269467, 32-CA-269470, and 32-CA-269473. Please read through conclusion:

Fact Timeline:

Case 32-RD-252832 petition for election filed 12/4/2019, action blocked due to pending cases.

Pending cases cleared, no longer blocked as of October 2, 2020.

Contract vote October 2020.

NLRB Region 32 Order notice sent November 20, 2020 of Zoom hearing scheduled December 2, 2020 for all parties to meet and agree on process to move forward with vote for petition.

November 24, 2020 Zoom Pre-Hearing Conference invitation sent to all scheduled November 30, 2020.

November 24, 2020 union counsel submits above mentioned unfair labor practices charges.

November 25, 2020 Mercedes Benz of Oakland counsel submits request for postponement of December 2, 2020 Hearing.

November 25, 2020 Region 32 Director issues blocking letter for petition due to union counsel charges

filed previous day. December 2, 2020 Hearing canceled by Director.

Facts and Reasons for the Request for Review:

Case 32-RD-252832 petition filed December 4, 2019 waiting for pending labor charges to be completed. October 2020 two years have transpired without a union contract. All union charges cleared October 2020. October 2020 only union members in good standing allowed to vote on new contract, minority of represented work force approves contract. November 20, 2020 Hearing scheduled for December 2, 2020 to proceed with RD petition. After union is informed of scheduled Hearing November 20, 2020 new labor charges are filed November 24, 2020 involving October 2020 contract and an abeyance is issued November 25, 2020, cancelling movement forward with petition and vote. The Case 32-RD-252832 was filed December 4, 2019, setting it first for action over charges constructed a year later after a contract vote. I am sure you are aware of precedent for proceeding with the RD petition and vote due to the petition being in place well prior to the contract vote and subsequent labor charges levied after the scheduled petition Hearing is announced.

Summary Reasons of Request for Review:

- 1) RD Case 32-RD-252832 petition filed December 4, 2019 and as of October 2, 2020 no blocking charges, clear to proceed with vote after almost one year of waiting in line. Region 32 NLRB proceeds legally with petition per NLRB guidelines.
- 2) Only after Hearing for Case 32-RD-252832 petition announced November 20, 2020 by Region 32 NLRB does the union file potential disputes arising in November 2020, from a minority voted Contract, fall 2020. Precedent you are aware of places contract implementation secondary to a RD petition in place prior to a contract after the RD petition was filed. Therefore, the RD petition vote is primary and is required prior to any contract disputes and charges raised stemming from the later contract.

- 3) The latest union charges are referencing potential issues of contract implementation November 2020. Precedent you are aware of from union charges to delay a RD petition vote with late charges not related to the legal RD Petition vote are relevant only after the RD Petition vote has occurred and concluded by the NLRB. Otherwise, the union could keep filing charges, delaying a RD Petition vote to infinity.

Concluding Statement of Request for Review:

I am therefore respectfully submitting a Request for Review to rescind the ordered abeyance due to the RD Petition order timeline with NLRB, and that the new four charges are not relevant to the legal implementation of the RD Petition vote, both with precedence you are aware of.

Sincerely,

Kenneth M Dayton

Technician

Mercedes Benz of Oakland

CC:

DEPUTY EXECUTIVE SECRETARY

Farah Z Qureshi

Farah.Qureshi@nrlb.gov

/s/ Farah Z Qureshi c/o Lashan Carter

Lashan.carter@nrlb.com

VALERIE HARDY-MAHONEY

REGIONAL DIRECTOR

REGION 32

1301 CLAY ST STE 300N

OAKLAND, CA 94612-5224

Valerie.Hardy-Mahoney@nrlb.gov

NLRB Region 32- Regional Director, Christy Kwon

Christy.Kwon@nrlb.gov

DARIN SPARROW, GENERAL MANAGER

MERCEDES BENZ OF OAKLAND

2915 BROADWAY

OAKLAND, CA 94611

Darin.sparrow@euromotorsca.com

JOHN P. BOGGS, ESQ.

FINE BOGGS & PERKINS LLP

80 STONE PINE ROAD

SUITE 210

HALF MOON BAY, CA 94019

jboggs@employerlawyers.com

DON CROSATTO

MACHINISTS DISTRICT LODGE 190, LOCAL

LODGE 1546

10260 MACARTHUR BLVD

OAKLAND, CA 94605-5199

Dcrow441@aol.com

DAVID W. M. FUJIMOTO, ESQ.

WEINBERG, ROGER AND ROSENFELD

1001 MARINA VILLAGE PARKWAY STE 200

ALAMEDA, CA 94501

dfujimoto@unioncounsel.net

JESSE JUAREZ

MACHINISTS AUTOMOTIVE TRADES

DISTRICT LODGE NO. 190, MACHINISTS

LOCAL 1173

10260 MACARTHUR BLVD

OAKLAND, CA 94605-5143

Jjuarez1173@sbcglobal.net

PHIL YBARROLAZA, UNION

REPRESENTATIVE

TEAMSTERS LOCAL NO. 853

7750 PARDEE LANE

OAKLAND, CA 94621-1497

phil@teamsters853.org

CAREN P. SENCER, ATTORNEY AT LAW

WEINBERG ROGER & ROSENFELD

1001 MARINA VILLAGE PKWY

SUITE 200

ALAMEDA, CA 94501-6430

csenser@unioncounsel.net

Sheila K. Sexton

ssexton@beesontayer.com